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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,009	04/13/2001	Masanori Matsuura	OAC-012	3152
959	7590	07/09/2004	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			MASINICK, MICHAEL D	
		ART UNIT	PAPER NUMBER	
		2125		

DATE MAILED: 07/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/835,009	MATSUURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael D Masnick	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on June 18<sup>th</sup>, 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 and 15-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,5,6,9,10,15-19 and 21 is/are rejected.  
 7) Claim(s) 3,4,7,8,11-13 and 20 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-13 and 15-21 are pending in this application.

### ***Response to Arguments***

1. Applicant's arguments filed June 18<sup>th</sup>, 2004 have been fully considered but they are not persuasive.
2. Applicant has stated that they disagree with the examiners assessment that the deletion of data and the re-writing of data are virtually the same process in a non-volatile memory. Further research has uncovered that in flash memory (also known as FEPROM), as used by both Kondo and the current application, data is erased and reprogrammed in blocks, unlike the byte by byte altering capability of EEPROM. This further supports the examiners statement that the rewriting and the erasing of memory is essentially the same operation. Applicant's example of an EPROM ultra-violet light deletion system is not relevant to the claims as written as they do not specifically cite an EPROM device.
3. In response to applicants argument that Kondo does not show "waiting without communicating with the vehicle controller until a predetermined waiting time elapses from the time at which a signal for requesting deletion of the data in the non-volatile memory is sent to the vehicle controller", examiner specifically cites column 4 lines 27-43 which detail the receiving of a rewriting command and the wait step as was previously specifically cited in reference to figures 5 and 10.
4. In response to applicants arguments that the Hirose patent does not adequately show the calculation of time required to delete data based on the memory specification and the size of the

data, arguments are found to be persuasive. Claim 17 is moved to be part of the previous 102(e) rejection as it is very broad. Claims 4, 8, and 13 are indicated as allowable below.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 5, 6, 9, 10, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,405,279 to Kondo et al.
2. Referring to claims 1, 5, 9, 15, 18, and 21, Kondo shows a rewriting device, system, and method for rewriting data stored in a memory of a vehicle controller: the rewriting device capable of communicating with the vehicle controller (Abstract) and configured to wait without communicating with the vehicle controller until a predetermined waiting time elapses from the time at which a signal for requesting deletion of the data is sent to the vehicle controller or from the time at which a signal indicative of start of deleting operation of the data is received from the vehicle controller (Figures 4 and 10). Examiner notes that column 2, lines 20-30 state that it is undesirable to attempt to communicate during this writing time.
3. Referring to claims 2, 6, and 10, Kondo shows wherein the predetermined waiting time is the time necessary to delete the data stored in the memory (figures 5 and 10).

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4. Referring to claim 17, Kondo shows calculating the time to delete the memory and setting the deleting time to be the waiting time (figures 5 and 10).
5. Referring to claims 16 and 19, Kondo shows when the waiting time has elapsed, sending a request for the result of the deleting operation to the vehicle controller (Figure 4, step S206).

*Allowable Subject Matter*

6. Claims 3, 4, 7, 8, 11-13 and 20 are objected to as being dependant upon a rejected claim, but would be considered allowable if rewritten in independent form.

*Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D Masinick whose telephone number is (703) 305-7738. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

mdm



LEO PICARD  
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